

# SENATE BILL 13

D3

(0lr0335)

## ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senator Raskin**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Civil Proceedings – Foreign Defamation Judgments – ~~Enforceability~~**  
3 **Recognition, Enforceability, and Bases of Personal Jurisdiction**

4 FOR the purpose of authorizing a court in this State to exercise personal jurisdiction  
5 for certain purposes and under certain circumstances over a certain person who  
6 obtains a certain foreign defamation judgment; ~~prohibiting recognition of~~  
7 ~~certain foreign judgments;~~ establishing that ~~a~~ certain foreign defamation  
8 ~~judgment need~~ judgments may not be recognized in this State unless a certain  
9 court makes a certain ~~finding~~ determination; ~~authorizing a court to award costs~~  
10 ~~and reasonable attorney's fees to a party opposing recognition or enforcement of~~  
11 ~~a certain foreign judgment;~~ defining a certain term; *providing for the*  
12 *application of this Act;* and generally relating to *the recognition and*  
13 enforceability of certain foreign *defamation* judgments and personal jurisdiction  
14 over certain persons who obtain certain foreign *defamation* judgments.

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 BY adding to  
 2 Article – Courts and Judicial Proceedings  
 3 Section 6–103.3 *and 10–704(c)*  
 4 Annotated Code of Maryland  
 5 (2006 Replacement Volume and 2009 Supplement)

6 ~~BY repealing and reenacting, with amendments,~~  
 7 ~~Article – Courts and Judicial Proceedings~~  
 8 ~~Section 10–704~~  
 9 ~~Annotated Code of Maryland~~  
 10 ~~(2006 Replacement Volume and 2009 Supplement)~~

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 **6–103.3.**

15 **(A) IN THIS SECTION, “DEFAMATION” INCLUDES INVASION OF PRIVACY**  
 16 **BY FALSE FACTS.**

17 **(B) A COURT MAY EXERCISE PERSONAL JURISDICTION, TO THE**  
 18 **FULLEST EXTENT PERMITTED BY THE UNITED STATES CONSTITUTION, OVER**  
 19 **ANY PERSON WHO OBTAINS A JUDGMENT IN A DEFAMATION PROCEEDING**  
 20 **OUTSIDE THE UNITED STATES AGAINST ANY PERSON WHO IS A RESIDENT OF**  
 21 **THIS STATE ~~OR IS OTHERWISE SUBJECT TO JURISDICTION IN THIS STATE OR~~**  
 22 **HAS ASSETS IN THIS STATE** FOR THE PURPOSE OF PROVIDING DECLARATORY  
 23 RELIEF WITH RESPECT TO THAT PERSON’S LIABILITY FOR THE JUDGMENT OR  
 24 DETERMINING WHETHER THE JUDGMENT ~~SHOULD~~ **MAY** NOT BE RECOGNIZED  
 25 UNDER § 10–704 OF THIS ARTICLE IF:

26 **(1) ~~THE PUBLICATION AT ISSUE WAS PUBLISHED IN THIS STATE;~~**  
 27 **AND**

28 **(2) ~~THE~~ THE MARYLAND RESIDENT OR ~~PERSON SUBJECT TO~~**  
 29 **JURISDICTION PERSON WHO HAS ASSETS IN THIS STATE.**

30 **(i) ~~(1) HAS ASSETS IN THIS STATE THAT MIGHT BE USED~~**  
 31 **TO SATISFY THE FOREIGN DEFAMATION JUDGMENT; OR**

32 **(ii) ~~(2) MAY~~ MAY HAVE TO TAKE ACTIONS IN ~~THIS STATE~~**  
 33 **MARYLAND TO COMPLY WITH THE FOREIGN DEFAMATION JUDGMENT.**

34 10–704.

1 ~~(A) IN THIS SECTION, "DEFAMATION" INCLUDES INVASION OF PRIVACY~~  
 2 ~~BY FALSE FACTS.~~

3 ~~(a) (B) A foreign judgment is not conclusive if:~~

4 ~~(1) The judgment was rendered under a system which does not provide~~  
 5 ~~impartial tribunals or procedures compatible with the requirements of due process of~~  
 6 ~~law;~~

7 ~~(2) The foreign court did not have personal jurisdiction over the~~  
 8 ~~defendant;~~

9 ~~(3) The foreign court did not have jurisdiction over the subject matter;~~  
 10 ~~or~~

11 ~~(4) The judgment was obtained by fraud.~~

12 ~~(b) (C) A foreign judgment need MAY not be recognized if:~~

13 ~~(1) The defendant in the proceedings in the foreign court did not~~  
 14 ~~receive notice of the proceedings in sufficient time to enable him to defend;~~

15 ~~(2) The cause of action on which the judgment is based is repugnant to~~  
 16 ~~the public policy of the State;~~

17 ~~(3) The judgment conflicts with another final and conclusive~~  
 18 ~~judgment;~~

19 ~~(4) The proceeding in the foreign court was contrary to an agreement~~  
 20 ~~between the parties under which the dispute was to be settled out of court; ~~or~~~~

21 ~~(5) In the case of jurisdiction based only on personal service, the~~  
 22 ~~foreign court was a seriously inconvenient forum for the trial of the action; OR~~

23 ~~(C) (1) IN THIS SUBSECTION, "DEFAMATION" INCLUDES INVASION OF~~  
 24 ~~PRIVACY BY FALSE FACTS.~~

25 ~~(2) A FOREIGN JUDGMENT AGAINST ANY PERSON WHO IS A~~  
 26 ~~RESIDENT OF THIS STATE OR WHO HAS ASSETS IN THIS STATE MAY NOT BE~~  
 27 ~~RECOGNIZED IF:~~

28 ~~(6) (I) THE CAUSE OF ACTION RESULTED IN A DEFAMATION~~  
 29 ~~JUDGMENT OBTAINED IN A JURISDICTION OUTSIDE THE UNITED STATES,~~  
 30 ~~UNLESS THE COURT BEFORE WHICH THE MATTER IS BROUGHT IN THIS STATE~~

1 FIRST DETERMINES THAT THE DEFAMATION LAW AS APPLIED IN THE FOREIGN  
2 JURISDICTION PROVIDES FOR AT LEAST AS MUCH PROTECTION FOR FREEDOM  
3 OF SPEECH AND THE PRESS AS IS PROVIDED BY BOTH THE UNITED STATES  
4 CONSTITUTION AND THE MARYLAND CONSTITUTION; OR

5 ~~(7)~~ (II) THE CAUSE OF ACTION RESULTED IN A DEFAMATION  
6 JUDGMENT ENTERED AGAINST THE PROVIDER OF AN INTERACTIVE COMPUTER  
7 SERVICE, AS DEFINED IN 47 U.S.C. § 230, UNLESS THE COURT BEFORE WHICH  
8 THE MATTER IS BROUGHT IN THIS STATE DETERMINES THAT THE JUDGMENT IS  
9 CONSISTENT WITH 47 U.S.C. § 230.

10 ~~(D) IN ANY ACTION BROUGHT IN A COURT OF THIS STATE UNDER §~~  
11 ~~6-103.3 OF THIS ARTICLE OR TO ENFORCE A FOREIGN JUDGMENT, THE COURT~~  
12 ~~MAY AWARD THE PARTY OPPOSING RECOGNITION OR ENFORCEMENT OF THE~~  
13 ~~FOREIGN JUDGMENT REASONABLE ATTORNEY'S FEES AND COSTS, IF THE PARTY~~  
14 ~~PREVAILS IN THE ACTION ON A GROUND SPECIFIED IN THIS SECTION.~~

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
16 construed to apply only prospectively and may not be applied or interpreted to have any  
17 effect on or application to any case filed in a court before the effective date of this Act.

18 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
19 effect October 1, 2010.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.